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Permanent Forum on Indigenous Issues
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Item 4 of the provisional agenda*
Implementation of recommendations on the six mandated areas of the Forum and on the Millennium Development Goals

Information received from the United Nations system and other intergovernmental organizations

Secretariat of the Convention on Biological Diversity

Summary

In the present document, the secretariat of the Convention on Biological Diversity provides information on the implementation of the recommendations of the Permanent Forum on Indigenous Issues at its third, fourth and fifth sessions addressed to the Convention secretariat, as well as follow-up concerning the recommendations of the Forum at its second session.

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I. Response to recommendations addressed exclusively to the secretariat of the Convention on Biological Diversity

Recommendation regarding the establishment of an international code of ethics[1]

1. At its second session, the Permanent Forum on Indigenous Issues recommended, inter alia,

> the establishment of an international ethical code on bio-prospecting in order to avoid bio-piracy and ensure the respect for indigenous cultural and intellectual heritage. Under the framework of the Convention, a mechanism should be established for the repatriation and devolution of genetic materials collections to indigenous peoples. The Forum recommended to the Convention secretariat that the global taxonomy initiative incorporate an ethical principles and social framework for the protection of indigenous peoples' rights to their lands, traditional knowledge and resources before its implementation.

2. Following up on that recommendation, at its seventh meeting the Conference of the Parties requested the ad hoc open-ended Intersessional Working Group on Article 8 (j) and Related Provisions to develop elements of a code of ethical conduct to ensure respect for the cultural and intellectual heritage of indigenous and local communities relevant for the conservation and sustainable use of biological diversity, taking into account task 16 of the programme of work on article 8 (j) and related provisions.[2] Accordingly, the issue was included as item 9 of the agenda of the fourth meeting of the Working Group.

3. It should also be noted that, in task 16 of the programme of work on the implementation of article 8 (j) and related provisions,[3] the Executive Secretary was requested to identify, compile and analyse, with the participation of indigenous and local communities, existing and customary codes of ethical conduct to guide the development of models for codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity. Thus, following up on the request of the Permanent Forum will also address task 16 of the programme of work.

4. At its eighth meeting, the Conference of the Parties took note of the elements of a code of ethical conduct and invited parties, Governments, indigenous and local communities, relevant international organizations and other relevant stakeholders, after having undertaken, where appropriate, consultations, to submit written comments to the Executive Secretary on the draft elements at least six months prior to the fifth meeting of the ad hoc Working Group on Article 8 (j) and Related Provisions, and requested the Executive Secretary to transmit the decision to the Permanent Forum and to seek collaboration in the development of the code.

5. The Executive Secretary is currently compiling the views and comments provided, including those of the members of the Permanent Forum. The compilation and a revised draft on elements of a code of ethical conduct will be available at least

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[1] *Official Records of the Economic and Social Council, 2003, Supplement No. 23* (E/2003/43), para. 57.

[2] See www.biodiv.org/decisions, decision VII/16, annex, I, para. 5.

[3] Ibid., decision V/16, annex.

three months prior to the fifth meeting of the Working Group on Article 8 (j) for its consideration. The Working Group has been requested to further develop the draft elements of a code of ethical conduct and submit them to the Conference of the Parties at its ninth meeting for consideration and possible adoption.

Recommendation regarding indigenous women, gender issues and biodiversity[4]

6. The secretariat of the Convention on Biological Diversity has been actively engaged in the Task Force on Indigenous Women of the United Nations Inter-Agency Network on Women and Gender Equality since its inception in 2004.

7. In its preamble, the Convention on Biological Diversity recognizes the vital role that women play in the conservation and sustainable use of biological diversity and affirms the need for the full participation of women at all levels of policymaking and implementation for biological diversity conservation.

8. A specific framework for the participation of indigenous women can be found in the programme of work for the implementation of article 8 (j) and related provisions regarding participatory mechanisms for indigenous and local communities.[3] Task 4 of the first phase of the programme of work calls on parties to develop, as appropriate, mechanisms for promoting the full and effective participation of indigenous and local communities with specific provisions for the full, active and effective participation of women in all elements of the programme of work, taking into account the need:

(a) To build on the basis of their knowledge;

(b) To strengthen their access to biological diversity;

(c) To strengthen their capacity on matters pertaining to the conservation, maintenance and protection of biological diversity;

(d) To promote the exchange of experiences and knowledge;

(e) To promote culturally appropriate and gender-specific ways.

9. In order to ensure the full involvement and participation of indigenous women in the work conducted under the Convention on Biological Diversity with regard to traditional knowledge, the secretariat takes into account gender considerations when selecting participants for its meetings, in research work, when creating expert groups and in general in all activities related to policy creation and implementation of provisions of the Convention. As an example, the article 8 (j) advisory group is composed of 17 members, 9 of whom are indigenous women. Given that traditional knowledge is a cross-cutting issue within the Convention, the promotion of the participation of indigenous women is applicable to meetings regarding each work programme and the decisions of the Conference of the Parties.

10. Finally, the secretariat of the Convention continues to cooperate with the secretariat of the Permanent Forum and with other relevant organizations, as well as with women representatives of indigenous and local communities to ensure that the perspectives and strategies of indigenous women in biodiversity-related issues are

[4] *Official Records of the Economic and Social Council, 2004, Supplement No. 23* (E/2004/43), para. 75.

taken into account in the work conducted within the framework of the Convention with regard to traditional knowledge.

Recommendation regarding sui generis systems for the protection of traditional knowledge and the development of an international regime on access and benefit-sharing of genetic resources[5]

11. The development of sui generis systems for the protection of traditional knowledge was considered at the fourth meeting of the Working Group on Article 8 (j) and at the eighth meeting of the Conference of the Parties. The Conference of the Parties has requested the Executive Secretary to continue gathering and analysing information in consultation with parties, Governments and indigenous and local communities, and to develop further, as a priority issue, elements for consideration at the fifth meeting of the Working Group so that it can identify priority elements and make recommendations regarding their adoption at the ninth meeting of the Conference of the Parties.

12. At its eighth meeting, the Conference of the Parties adopted a timetable for the development of an international regime on access and benefit-sharing with the aim of adopting a regime no later than 2010, and it has also made significant decisions to enhance the participation of indigenous and local communities in issues related to traditional knowledge and associated genetic resources.

Recommendation regarding the convening by the Inter-Agency Support Group on Indigenous Issues of a technical workshop on indigenous traditional knowledge to promote a complementary and holistic approach to traditional knowledge[6]

13. The secretariat of the Convention assisted in the facilitation of a technical workshop on indigenous traditional knowledge, held in Panama in September 2005. The workshop promoted a collaborative, complementary and holistic approach to traditional knowledge in order to ensure a better understanding of indigenous concerns and their possible solution. The workshop was attended by 28 experts from indigenous organizations and by representatives of the United Nations system and other intergovernmental organizations.

14. In its conclusions and recommendations, the workshop identified indigenous perspectives and experiences with indigenous traditional knowledge issues, gained a better understanding of the various programmes of the United Nations system and other intergovernmental organizations relating to indigenous traditional knowledge, and formulated certain recommendations for the consideration of the Forum. Recognizing the multiplicity of policy areas in which indigenous traditional knowledge issues arise, and the range of priorities, objectives and strategies relating to indigenous traditional knowledge of indigenous peoples, workshop participants identified a number of recommendations to be addressed to the United Nations system and other intergovernmental organizations, Governments, indigenous peoples and academia, as well as some recommendations to be addressed to the Forum itself.

[5] Ibid., para. 77.

[6] Ibid., *2005, Supplement No. 23* (E/2005/43), para. 140.

Recommendation regarding the international expert group meeting on the international regime on access and benefit-sharing and indigenous peoples' human rights under the Convention on Biological Diversity[7]

15. In cooperation with the secretariat of the Convention, the secretariat of the Permanent Forum facilitated an international expert group meeting on the Convention on Biological Diversity international regime on access and benefit-sharing and indigenous peoples' human rights, held from 17 to 19 January 2007 in New York. The report of the meeting, including draft recommendations and conclusions, will be considered at the sixth session of the Permanent Forum and at the fifth meeting of the Working Group on Article 8 (j) and the Working Group on access and benefit-sharing in October 2007.

Recommendation regarding support for the international expert seminar of indicators[8]

16. The Permanent Forum welcomed the holding of an international expert seminar on indicators relevant to indigenous peoples and biodiversity, to be organized by the working group on indicators of the International Indigenous Forum on Biodiversity under the auspices of the Convention and the Permanent Forum. To that end, and through the generosity of the Government of Spain, the secretariat of the Convention developed memorandums of understanding with the Latin American and Caribbean regional office of the World Conservation Union and the Tebtebba Foundation to facilitate the Latin American and Caribbean regional consultation, which was held in December 2006 in Quito, and the international expert meeting on indicators, which was held in the Philippines from 5 to 9 March 2007. The reports of those meetings will be considered at the fifth meeting of the Working Group on Article 8 (j) and at the ninth meeting of the Conference of the Parties, and will inform the adoption of indicators relevant to indigenous and local communities within the context of the Convention and the 2010 biodiversity target.

II. Response to recommendations addressed to the United Nations system

General recommendation regarding effective participation of indigenous peoples

17. The Conference of the Parties has not responded to the general recommendations made by the Permanent Forum to the United Nations system. However, noting that regular recommendations have been made by the Forum concerning the effective participation of indigenous peoples in matters that affect them, the Conference of the Parties at its eighth meeting adopted enhanced participation mechanisms and measures to assist the effective participation of indigenous and local communities in the development of an international regime on access and benefit-sharing of genetic resources and associated traditional knowledge.

18. As an indication of the importance placed on the implementation of article 8 (j) and the effective participation of indigenous and local communities, it

[7] Ibid., *2006, Supplement No. 23* (E/2006/43), chap. I, sect. A, draft decision I.

[8] Ibid., para. 22.

should be noted that the Convention is the only multilateral environmental agreement with two full-time positions in its secretariat exclusively focused on traditional knowledge and its role in the conservation and sustainable use of biological diversity.

19. At its eighth meeting, held in Curitiba, Brazil, in March 2007, the Conference of the Parties became the first governing body of a multilateral environmental agreement to establish a voluntary funding mechanism specifically for the participation of indigenous and local communities in meetings held under the Convention. In recognition of the diversity of indigenous and local communities, the Conference of the Parties also established separate categories of accreditation for indigenous communities and local communities embodying traditional lifestyles.

20. The eighth meeting of the Conference of the Parties attracted a large number of participants from indigenous and local communities, as well as more than 1,000 non-governmental organizations, including 348 indigenous organizations. After the Permanent Forum, the secretariat of the Convention hosts one of the largest gatherings of indigenous and local communities in the international system, which is further testimony to the high priority given by indigenous and local communities to participation in the work of the Convention.

III. Obstacles to the implementation of recommendations of the Permanent Forum

21. Within the context of the Convention on Biological Diversity, the implementation of the programme of work for article 8 (j) and related provisions is the highest priority for indigenous and local communities. In assessing obstacles to implementation, it is important to note that the secretariat of the Convention is not an implementing body; implementation in fact rests with the parties to the Convention. It is therefore useful to consider a brief analysis of the third national reports of the parties to the Convention concerning implementation of the Convention. In the reports, the parties described the level of priority that they give to each article of the Convention. For each article, the parties prescribed the programme of work with a low, medium or high priority. Considering only 30 reports at the time of the initial analysis, with regard to article 8 (j), 9 parties considered article 8 (j) a high priority, 10 considered it to be a medium priority and 8 considered it a low priority. Only one other provision, article 16 (access to and transfer of technology), had fewer parties describing the programme of work as a high priority. Furthermore, article 8 (j) has the highest number of low priority ratings. All countries that described article 8 (j) as a high priority have acknowledged indigenous or local communities, except Germany, whose international cooperation efforts, however, significantly involve work with indigenous and local communities. Of the countries that rated article 8 (j) a low priority, none had recognized indigenous and local communities, except Morocco. Finally, the parties that rated article 8 (j) a medium priority all acknowledged having indigenous and local communities (see table).

Level of priority given to article 8 (j) by reporting Member States

High priority	*Medium priority*	*Low priority*
Bangladesh	Algeria	Belgium
China	Botswana	Cyprus
Turkmenistan	Congo	Israel
Finland	Estonia	Iceland
Germany	Hungary	Italy
Mauritania	Namibia	United Kingdom of Great Britain and Northern Ireland
Niue	Norway	The former Yugoslav Republic of Macedonia
Senegal	Poland	Morocco
Thailand	Republic of Korea	
	Sweden	

22. Although it is difficult to establish trends or to make comparisons with the second national reports because of changes in reporting structure and different numbers and combinations of the Member States reporting, the priority given to implementing article 8 (j) appears to have decreased. In the second national reports, 44 per cent of the 92 parties that responded to the question on priority of work rated article 8 (j) high priority, compared to only 30 per cent of the 30 parties that gave it a high priority in the third national reports.

23. There are numerous challenges facing countries in the implementation of article 8 (j), ranging from financial, capacity, social, political and demographic obstacles to public awareness issues. The parties reported that the 10 most significant obstacles to the implementation of article 8 (j) were, in order of perceived level of difficulty:

- Lack of financial, human and technical resources
- Lack of economic incentives
- Lack of public education and awareness at all levels
- Underused scientific and traditional knowledge
- Lack of adequate scientific research capacities to support all objectives
- Lack of horizontal cooperation among stakeholders
- Lack of capacity in local communities
- Lack of synergies at the national and international levels

- Lack of appropriate policies and laws
- Inadequate capacity to act, caused by institutional weaknesses

Poverty was also considered a high challenge, particularly in African countries.

IV. Other significant information on recent policies, programmes, budgetary allocations or activities regarding indigenous issues

24. The secretariat regularly liaises with donors to support the implementation of the work programme for article 8 (j), as decided by the Conference of the Parties at its biennial meetings. In particular, the voluntary fund for the participation of indigenous and local communities in meetings held under the Convention is now fully operational. Information about the fund, including application forms, is available at www.biodiv.org/programmes/socio-eco/traditional/default.shtml.

V. Information and suggestions regarding the special theme of the sixth session, "Territories, lands and natural resources"

25. The most relevant output to date regarding article 8 (j) and the Convention on Biological Diversity with regard to the special theme of the sixth session of the Permanent Forum on Indigenous Issues is the adoption of the Akwé: Kon Voluntary Guidelines.

26. The Conference of the Parties has been actively considering the question of the preservation of sacred sites and lands and waters occupied by indigenous and local communities. In February 2004, the parties adopted the guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed for, or which are likely to have an impact on, sacred sites or lands and waters traditionally occupied or used by indigenous and local communities.

27. The guidelines provide guidance to Governments on the incorporation of cultural, environmental and social considerations of indigenous and local communities into new or existing impact-assessment procedures. The Conference of the Parties requested governments to use the guidelines whenever developments were proposed for, or were likely to have an impact on, sacred sites or lands and waters traditionally occupied or used by indigenous and local communities. The guidelines are available in the six United Nations languages at www.biodiv.org/doc/guidelines.shtml.

VI. Information regarding the Second International Decade of the World's Indigenous People

28. All activities within the framework of the Convention on Biological Diversity relating to indigenous and local communities directly contribute to the implementation of the objectives of the Second International Decade of the World's Indigenous People. In particular, article 8 (j) and related provisions directly address

matters of the utmost importance to indigenous and local communities by focusing on the respect, preservation and maintenance of the knowledge, innovations and practices of indigenous and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Article 8 (j) also requires that such knowledge, innovations and practices be promoted with the approval and involvement of the knowledge-holders and encourage the equitable sharing of benefits arising from their use.

29. The parties to the Convention have taken steps to comply with those commitments. The Conference of the Parties established the ad hoc open-ended intersessional Working Group on Article 8 (j) and Related Provisions to address them and to develop an ambitious programme of work, which was adopted by the Conference of the Parties in 2000 and provides the basis for action on traditional knowledge within the framework of the Convention.

30. In particular, in accordance with goal 1 of the Decade, by its decision VIII/5/E, the Conference of the Parties urged the parties to the Convention to develop, adopt and/or recognize regional, national and local sui generis systems for the protection of traditional knowledge, innovations and practices, based on the customary laws of indigenous and local communities with their full and effective participation, and has requested the further development, as a priority issue, of possible elements of sui generis systems for consideration at the fifth meeting of the Working Group on Article 8 (j) and at the ninth meeting of the Conference of the Parties.

31. In addition, traditional knowledge is an important component of the thematic programmes of work on agricultural biodiversity, forest biological diversity, marine and coastal ecosystems, inland waters, and dry and sub-humid lands established by the Conference of the Parties.

32. In conclusion, the secretariat of the Convention on Biological Diversity has considerably advanced its preliminary work for the promotion and protection of traditional knowledge. In distilling its work into outcomes, the Convention has entered a period of enhanced implementation and actively seeks and encourages the involvement of indigenous and local communities in the development and implementation of the work programme of article 8 (j) and related provisions, thereby directly contributing to the goals of the Second International Decade of the World's Indigenous People.

VII. Input to a questionnaire to enhance reporting to the Permanent Forum

33. The secretariat of the Convention on Biological Diversity respectfully suggests that questionnaires be brief and to the point and allow for reporting on recommendations that are made within the mandate of the body concerned.